



DEPARTMENT OF PUBLIC SAFETY POLICIES & PROCEDURES



POLICY NUMBER

OPR:19

EFFECTIVE
DATE:
05/10/2010

ORIGINAL
ISSUED ON:
12/19/2002

REVISION NO:

6

SUBJECT: USE OF RECORDING EQUIPMENT

1.0 PURPOSE

The purpose of this policy is to establish a procedure for the proper use of all recording equipment utilized by DPS personnel as well as the storage and management of the recordings.

2.0 POLICY

It is the policy of the DPS to use mobile audio-visual recording equipment for purposes of, including but not limited to: capturing evidence for use in criminal prosecutions, training, evaluation of work performance, etc.

3.0 APPLICABILITY

This policy applies to all personnel issued mobile audio-visual recording equipment and portable audio recorders.

4.0 REFERENCES

A. 29-1-16 NMSA 1978

5.0 DEFINITIONS

A. **DPS** – The Department of Public Safety.

Definition added. → B. **DVMS** – Digital Video Management System -Technologically advanced in-car digital video system which provides higher quality of video and audio recordings.

C. **MAVR** – Mobile audio-visual recording.

D. **Portable Recorder** – Department issued audio recording device that is small enough to be carried on an officer's person.

6.0 PROCEDURE

MAVR, DVMS, and portable recording equipment is to be utilized by DPS commissioned personnel to collect evidence for the prosecution of criminal violations, training, evaluating work performance, protection against false allegations, and other uses as approved by supervisors. The MAVR and DVMS equipment will be utilized to document traffic stops and citizen encounters within close proximity of the patrol unit. The portable recording equipment will be utilized to document citizen encounters that take place outside the close proximity of the patrol unit.

A. **General Guidelines** – The Department has adopted the use of MAVR, DVMS, and portable audio recording systems in order to accomplish several objectives, including but not limited to:

USE OF RECORDING EQUIPMENT

1. Collect evidence by assisting with accurate documentation of events, actions, conditions, and statements made during arrests and critical incidents, thereby enhancing officer's reports, evidence collection, and court testimony.
2. Enhance the Department's ability to review procedures and probable cause for arrest, officer-suspect interaction, and use for officer evaluation and training.
3. Protect officers from false claims of improper conduct and other frivolous claims.

B. Operational Procedures for MAVR, DVMS, and Portable Recording Equipment

Personnel shall adhere to the following procedures when utilizing MAVR, DVMS, and portable recording equipment.

1. MAVR and DVMS equipment installed in vehicles is the responsibility of the officer assigned to that vehicle and will be maintained according to the manufacturer's recommendations and Department procedures.
2. All officers are **required** to carry their issued portable recorder while on duty.
3. At the beginning of each shift, officers shall determine whether their MAVR or DVMS equipment and portable recorders are working properly and shall notify their immediate supervisor of any problems as soon as possible. Any equipment problems discovered by the officer shall be logged on the officer's daily recap.
4. In addition, officers with MAVR or DVMS equipment shall ensure that the camera is properly positioned and adjusted to record events.

Clarification
added.

- 5. The officer shall ensure that the global positioning system (GPS) antenna is properly attached in order to provide speed and other geographical information of recorded events.
6. The officer shall also ensure that the wireless microphone **remains activated** in order to provide narration with the video or digital video recording.
7. Officers utilizing digital recorders, with optional recording quality settings, shall use a setting that provides adequate audio clarity.
8. MAVR equipment shall automatically activate when the vehicle's emergency equipment is in operation.

Clarification
added.

- 9. DVMS equipment shall automatically activate when the vehicle reaches a predetermined speed, during a crash involving the vehicle, when the vehicle's emergency equipment is in operation, when the gun rack is released, or when the microphone pack is activated.
10. The MAVR or DVMS equipment may be manually deactivated during non-enforcement activities such as protecting accident scenes, roadblocks, etc.
 - a. MAVR or DVMS equipment shall **NOT** be deactivated while responding to an incident with emergency equipment activated.

Clarification
added.

- b. DVMS equipment shall **NOT** be manually overridden by shutting the system or power supply off.
11. The MAVR, DVMS, and/or portable recording equipment shall **NOT** be deactivated until enforcement action is completed. If the equipment is deactivated before enforcement action is completed, the officer shall state the reasons on their daily

USE OF RECORDING EQUIPMENT

recap. Officers are not required to cease recording an event, situation, or circumstance at the demand of any person.

12. Officers shall use the MAVR, DVMS, and portable recorder in the following manner:
 - a. The MAVR and DVMS will be used while conducting traffic enforcement. The portable recorder shall be used to capture all audio interactions between an officer and person(s) should they move out of MAVR or DVMS recording range. Deviations from this will be documented by the officer on their daily recap and on an Offense/Incident Report, if appropriate.
 - b. During traffic enforcement, the MAVR or DVMS shall be used until the enforcement action is concluded, and the officer completes his/her contact with the occupants. In the event that a traffic stop leads to the arrest of one or more occupants, the recording shall continue until the prisoner(s) is properly restrained in a transport vehicle. If the prisoner is cooperative and non-combative, the recording may be stopped. Recording equipment shall be reactivated if the prisoner becomes uncooperative and/or combative. This shall be documented in an Offense/Incident Report. Nothing in this section precludes an officer from recording throughout transport and processing of cooperative prisoners at his/her discretion (e.g. male officer transporting female).
 - c. The portable recorder shall be used to document contact with persons when answering all calls for service.
 - d. The portable recorder shall be used to document custodial interrogations in their entirety, including Miranda Warnings.
 - e. The portable recorder shall be used to document search warrant operations from the time of entry until the area is secured.
 - f. The portable recorder shall be used to document the arrest of persons from the time initial contact is made until the prisoner is secured in a transport vehicle. The recording equipment shall be reactivated if the prisoner becomes uncooperative and/or combative while being transported or while at a temporary holding facility. The recording equipment shall remain activated until the prisoner is no longer in the officer's custody. This shall be documented in an Offense/Incident Report.
 - g. The portable recorder shall be used optionally for documentation purposes at crime and accident scenes, or other events, such as the seizure of evidence or contraband during the execution of search warrants.
 - h. Any type of encounter not mentioned above in which a recording would prove useful in later judicial/administrative proceedings.
 - i. Officers are not required to disclose to the public the fact that recording equipment is in use.
13. Officers who are assigned units equipped with DVMS and are involved in a pursuit shall, as soon as practical, classify the recording as a pursuit. The recording of the pursuit will be retained indefinitely by the Information Technology Bureau (ITB).
14. Under no circumstances will a conversation between DPS employees be recorded without all parties to the conversation being aware of the fact that the conversation is being recorded. The only exception to this rule will be instances involving the criminal investigation of Department personnel.

Clarification
added.



USE OF RECORDING EQUIPMENT

15. Officers shall not erase, reuse, or in any manner alter recordings or recording media, except as authorized by this policy. When the recording is no longer needed for court proceedings or Departmental purposes, it may be erased and re-issued.
16. Officers shall ensure that they have an adequate supply of recording media to last the duration of their shift.
17. All media containing recordings shall be properly labeled and identified with the officer's name, date(s) of the recording(s), and any other pertinent information prior to being submitted with related documentation.
18. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
19. Officers shall note in Offense/Incident Reports when video, digital, and/or audio recordings are made of the incident in question.

C. Procedure for Control and Management

1. Recordings with evidentiary value for court proceedings shall be safeguarded in accordance with Department policy *OPR:17 Evidence/Property Handling*.
2. Officers may store all other recordings in a secure storage facility, such as a locked desk drawer or filing cabinet, accessible only by the officers and their supervisor.
3. Recordings shall not be released to another criminal justice agency without approval of the District/Bureau Commander or his/her designee. When recordings are released, the Department shall maintain the original and provide the other agency with a duplicate unless there are specific reasons for releasing the original recording. Once the duplicate copy is made, the original should be returned to safe storage.
4. Recordings not scheduled for court proceedings or departmental use shall be maintained for at least one-hundred eighty (180) days from the date the recording was made, after which they may be re-issued upon being completely erased.
5. Recordings are the property of the DPS and shall not be viewed by unauthorized persons. Unauthorized persons include the media, family, friends, and other employees not involved in a supervisory or investigatory capacity. Employees are not authorized to copy or release recordings without supervisory approval. Members of the media requesting to view recordings must go through the normal release of records procedure. See *OPR:37 Release of Public Information* for further details.
6. All recordings deemed to be of value for training purposes should be forwarded to the Training and Recruiting Bureau once they are no longer needed for court proceedings.

D. Digital Audio Recorder Storage and Management

1. Upon receipt/issuance of a digital recorder, the officer shall make a recording and initial upload onto the server to ensure functionality. The following procedure shall be followed when uploading files from the recorder to the network:
 - a. Depending on the type of digital recorder being used, the officer will either separate the recorder and plug it into an available USB port, or place it in the cradle it came with, which should be plugged into a USB port.
 - b. Once the recorder is successfully connected, an option window should appear and the officer will choose the "Open Folder to View Files" option.

USE OF RECORDING EQUIPMENT

- c. Once the folder has opened, the officer will select the "Upload Audio Files" option.
 - d. The officer will then be prompted for his/her username and password to log in. The username and password are the same as those used to initially log onto a network computer.
 - e. Once the officer is successfully logged on, the computer will begin to download the audio files to the network. The recorder should not be disconnected until a message appears indicating that the process is complete.
 - f. These files will be stored on the network in the "X" drive and placed in designated folders assigned to individual officers. The files will be labeled under the format of Year Month Day-Hour Minute Second.
2. A failure to connect to the server will be reported to the Information Technology Bureau.
 3. All officers will upload their digital audio recorders onto the server daily or as soon as practical, but in all cases no later than weekly. This will not preclude officers from uploading their files more often, if necessary, to maintain adequate available memory.
 4. Once the audio files are uploaded to the "X" drive, they are stored for 180 days, after which they are automatically purged.
 5. Any files, which may **possibly** hold any evidentiary value in any court proceeding or are needed for departmental use should be copied onto the "Y" drive for long-term storage in the officer's folder.
 6. Once it has been determined that a file holds evidentiary value, it shall be transferred to permanent storage media as outlined in *OPR:17 Evidence/Property Handling* under the section titled "Photographs, Videos, and Audio Recordings."
 7. Supervisors will be responsible for auditing the "Y" drive folders of the officers under their command. Any files no longer needed or that have been transferred to permanent storage media should be deleted in order to preserve storage space.

NOTE: PERSONNEL FROM THE INVESTIGATIONS AND STANDARDS BUREAU ARE EXCLUDED FROM SECTION D **ONLY**. THESE PERSONNEL WILL FOLLOW THE PROCEDURES DEVELOPED BY THEIR RESPECTIVE BUREAUS AS TO THE MAINTENANCE OF THEIR DIGITAL AUDIO FILES.

E. Supervisory Responsibilities

Supervisory personnel who manage employees with MAVR, DVMS, or portable recording equipment shall ensure the following:

1. All employees follow established procedures for the use and maintenance of the equipment, handling of the recordings, and accurate completion of required documentation.
2. Supervisors shall randomly review recordings on a bi-weekly basis to assist in the periodic assessment of an employee's performance, to determine whether the recording equipment is being fully and properly utilized, and to identify material that may benefit others in training. It is within the supervisor's discretion to view the tapes more frequently. All reviews shall be documented on the standardized "Recording Device Review Log."

USE OF RECORDING EQUIPMENT

3. MAVR, DVMS, and portable recording equipment is inspected during line inspections to ensure proper functioning.
4. Non-functional or damaged equipment is repaired or replaced.
5. An adequate supply of recording media is available for officer use.
6. All media containing recordings of evidentiary value are properly stored.
7. Recordings are not released to or viewed by unauthorized persons.

NOTE: THIS POLICY SUPERSEDES ANY PREVIOUS POLICY OR DIRECTIVE RELATING TO MAVR OR DVMS EQUIPMENT AND PORTABLE AUDIO RECORDERS.

7.0 ATTACHMENTS

A. Recording Device Review Log

8.0 APPROVAL

APPROVED BY: s/John Denko
DPS Cabinet Secretary

DATE: May 10, 2010